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Agenda  
Regular Meeting  
July 8, 2015

Present: Mayor Kenneth Neilson, Councilmen Garth Nisson, Thad Seegmiller, Kress Staheli, Jeff Turek, City Attorney Jeff Starkey, City Manager Roger Carter, City Recorder Danice Bulloch, Community Development Director Drew Ellerman, Administrative Services Manager Kimberly Ruesch, Public Works Director Mike Shaw, Police Chief Jim Keith, Deputy Recorder Tara Pentz, Audience: Jayden Smith, Jared Madsen, Mori Kessler, Darrell Moench, James McFadden, Jamiee Goodwine, Ben Willits, Karen Harker, Richard Harker, C. Bradford Allen, Dantzelle Allen, Troy Belliston, Kolene Granger, Lana Eldredge, Lynn Eldredge, Jamie Wright, Derek Wright, Scott Gardner

Excused: Councilman Ronald Truman

Meeting commenced at 6:00 P.M.

**Invocation:** Councilman Turek

**Pledge of Allegiance:** Mayor Neilson

**1. APPROVAL OF THE AGENDA**

*Councilman Turek made a motion to approve the agenda. Councilman Nisson seconded the motion; which passed with the following roll call vote:*

<i>Councilman Nisson</i>	<i>Aye</i>
<i>Councilman Seegmiller</i>	<i>Aye</i>
<i>Councilman Staheli</i>	<i>Aye</i>
<i>Councilman Turek</i>	<i>Aye</i>

**2. ANNOUNCEMENTS**

Mayor Neilson offered a thank you on behalf of the Lion's Club for all those who participated in the 4th of July Celebration.

**3. DECLARATION OF ABSTENTIONS & CONFLICTS**

*None*

#### **4. CONSENT AGENDA**

**APPROVAL OF MINUTES:** Consideration to approve the minutes from the City Council Meetings of 06/24/2015.

**BOARD AUDIT REPORT:** Consideration to approve the Board Audit Report for June 2015

*Councilman Seegmiller made a motion to approve the consent agenda. Councilman Turek seconded the motion; which passed with the following roll call vote:*

<i>Councilman Nisson</i>	<i>Aye</i>
<i>Councilman Seegmiller</i>	<i>Aye</i>
<i>Councilman Staheli</i>	<i>Aye</i>
<i>Councilman Turek</i>	<i>Aye</i>

#### **5. PRELIMINARY PLAT**

**A. Consideration to approve the Preliminary Plat for Harmon Farms located at approximately Washington Fields Road and Majestic Drive. Applicant: Darwin Russon**

Community Development Director Drew Ellerman reviewed:

The applicant is requesting approval for a preliminary plat for the Harmon Farms subdivision, located at the northeast corner of Washington Fields Road and Majestic Drive. The applicant is wishing to develop 5 lots on an area covering 2.7 acres. The location of this particular project is zoned Single-Family Residential - 15,000 Sq. Ft. Min. (R-1-15).

The proposed preliminary plat request meets the subdivision requirements and other city ordinances as it relates to this location. Staff has reviewed the request and recommends approval, with conditions, of the preliminary plat as outlined.

The Planning Commission unanimously recommended approval of the Preliminary plat for the Harmon Farms subdivision to the City Council, based on the following findings and subject to the following conditions:

##### **Findings**

1. The preliminary plat meets the land use designation as outlined in the General Plan for the proposed area.
2. The preliminary plat conforms to the Zoning and Subdivision Ordinances as conditioned.

##### **Conditions**

1. A preliminary and final drainage study and grading and drainage plan shall be submitted for review and approval prior to moving dirt. Development of the site shall comply with the recommendations of the geotechnical study and drainage study, and improvements for drainage and detention shall be approved by the Public Works Department.
2. A final geotechnical study shall be submitted to the City for review and approval prior to

submitting the final plat. All recommendations of the geotechnical study shall be adhered to.

3. Construction drawings for the subdivision and its infrastructure shall be submitted to the City for review and approval prior to the submittal for final plat.

4. The construction drawings shall adequately address prevention of nuisance storm water drainage across lots. If retaining walls are utilized to prevent cross-lot drainage, the developer shall be responsible for installing said retaining walls.

5. At the time of final plat submittal, the following documents shall also be submitted:

A. A title report.

B. A copy of any deed restrictions, other restrictions, restrictive covenants, architectural controls, or other requirements that may apply to the development (CC&Rs).

6. All detention areas shall be landscaped and all detention and landscaped areas shall be maintained by the property owners and/or homeowners association. A note shall be placed on the plat stating that the City has the right to assess the property owners and/or homeowners association for failing to maintain the detention and landscaped areas.

7. A final landscaped plan and fencing plan shall be submitted for review and approval prior to the submittal of the final plat. Landscaping and fencing shall be installed prior to the occupancy of the buildings that will be constructed along the landscaped and fenced areas.

8. All landscaping, walls and other structures shall meet sight distance requirements. A note shall be placed on the final plat stating that the City has the right to assess the property owners and/or homeowners association for failing to maintain sight distance requirements.

9. Driveway locations are to be approved by the Public Works Department.

10. Any proposed blasting for the development of the subdivision requires the submittal of a blasting plan with the construction drawings and issuance of a blasting permit.

11. That a Post Construction Maintenance Agreement be recorded prior to the recording of the final plat.

Councilman Staheli asked for the zoning on the adjacent parcel.

Community Development Director Ellerman stated the current zone is A-20, however, the General Plan designation is Low Density Residential.

Councilman Staheli asked if future development would complete the half road along the boundary.

Community Development Director Ellerman stated he is confident the road would be completed in the future, once development is completed.

Councilman Seegmiller asked if the properties would have access onto the side roads.

Community Development Director Ellerman stated they would have no access on any other road than what is designated.

Councilman Nisson asked if the stormwater has been addressed.

Community Development Director Ellerman stated there has been a master storm drain, which was just completed. In addition, they have a detention basin for this parcel.

Councilman Staheli asked if the school parcel would come back to Council as an additional phase.

Community Development Director Ellerman stated part of this subdivision is a parcel for the school.

*Councilman Seegmiller made a motion to approve the Preliminary Plat for Harmon Farms located at approximately Washington Fields Road and Majestic Drive with the findings and conditions of Staff and as recommended by the Planning Commission. Councilman Nisson seconded the motion; which passed with the following roll call vote:*

<i>Councilman Nisson</i>	<i>Aye</i>
<i>Councilman Seegmiller</i>	<i>Aye</i>
<i>Councilman Staheli</i>	<i>Aye</i>
<i>Councilman Turek</i>	<i>Aye</i>

## **6. PUBLIC HEARINGS AND RELATED ORDINANCES**

**A. Public Hearing for consideration to approve a Zone Change request Z-15-09 to amend current PCD (Planned Community Development) by adding proposed Residential Rental, Short Term Use located at approximately 325 N. Red Stone Road. Applicant: Jack Fisher Homes**

Community Development Director Drew Ellerman reviewed:

The applicant is requesting approval to Amend portions of the Sienna Hills PCD project, as found in the Site Plan Map, PCD Project Plan and, if necessary, the Development Agreement.

More specifically:

- An amendment to the text of the PCD Project Plan, proposing that Section 3.3.1(B) be changed to allow Parcel #12B to added to the verbiage for short term / vacation rental use.
- The text amendment will also require an update to the Sienna Hills PCD "Site Plan Map". Parcel 12B will be highlighted with a new legend color to reflect the change in the Project Plan book.

Recently, the City Council passed the amendment adding the language within the Sienna Hills Project Plan Book allowing for use of short term / vacation rentals in certain (specific) parcels throughout the development (upon map amendment(s) per individual parcel location).

Staff has reviewed the proposed amendment to the Sienna Hills PCD. Staff is supportive with the proposed amendment allowing for short term / vacation rentals (if a majority of the current residents approve,) as outlined.

The Planning Commission unanimously (with a vote of 4-0) recommended denial of Z-15-09, for the zone change request, Amending the Sienna Hills PCD Project Maps, allowing for short term / vacation rental uses in the Parcel 12B development area, to the City Council, based on the turn

out of the property owners (who already live in the subdivision) and their opposition to the proposed change.

Just to note, Staff recommended approval of the proposal to the Planning Commission with the following findings:

#### Findings

1. That the requested zoning amendment conforms to the intent of the land use designation of the General Plan.
2. That the requested zoning amendment will be compatible with surrounding developments.
3. That no other changes (only those as outlined above) are implied to the remaining Sienna Hills PCD.

Councilman Staheli asked why would Staff recommend approval if the neighbors were not in favor.

Community Development Director Ellerman explained the area is for townhomes, which are generally more favorable to vacation rentals, as well as they have a community pool area. However, with majority of the property owners being against this request, he feels Planning Commission voted appropriately.

Councilman Seegmiller asked if Council can vote directly against the approved CC&R's.

City Attorney Jeff Starkey stated the developer and the land owner are going to have to do a revision to their CC&R's to either allow or restrict.

Councilman Seegmiller stated since these buildings are currently occupied, it stands to reason, there would be recorded CC&R's. Therefore, it would be inappropriate for Council to vote directly against those regulations.

Councilman Staheli if the majority of the lots are still owned by the developer, they would most likely be able to change those CC&R's.

City Attorney Starkey commented this is why CC&R's become problematic.

Councilman Staheli stated it is important to take into consideration the surrounding neighbors feeling on these requests, as the Ordinance specifically states there should be a percentage of homeowners in favor of such request prior to Council approval.

Councilman Seegmiller commented it is safe to say, there are rules there existing residents are required to follow, which the City does not regulate. However, it would be prevalent for the Staff and Council to read through them prior to these types of requests.

Councilman Staheli asked if the current CC&R's prevent short term rentals.

Community Development Director Ellerman stated someone involved in the public hearing at the Planning Commission Meeting indicated they did state no short term rentals. However, he does

not have proof of this, as he has not read the actual recorded CC&R's.

Darrell Moench asked for clarification of the density for this area.

Community Development Director Ellerman stated there are 72 units approved for this area, and this amount will not change regardless of the vacation rental status.

Mr. Moench stated there are 18 homeowners in this location at this time, all of those homeowners are not in favor of vacation rentals. When he purchased his home, he carefully reviewed the CC&R's and there was no short term rentals allowed. If these are going to be allowed, he would never have purchased his condo, nor would have many other current owners. Jack Fisher wants to have short-term rentals, which are 3 bedroom and 2 bath with 10 people. They have a very small pool and clubhouse, and with short-term rentals there would be over-crowding there as well. If this is approved, it will bypass the rights of the owners, who purchased these homes knowing they were not approved as overnight rentals.

Lynn Eldredge stated he does have a copy of the CC&R's which states there is a 6 months minimum lease on these homes. He and his wife just purchased their home here, and they plan to live in a home not a hotel. If nightly rentals are approved, they have no regulation on who will be in their clubhouse or pool. There is going to be a elementary school right next to this land as well.

Derek Wright stated they understand the area is a vacation destination. If this is made into vacation rentals, there is going to be parking and recreation vehicle issues. The homeowners do not want to live in a hotel, and this area was not approved for nightly rentals.

Richard Harker stated when he purchased in this subdivision he was aware of the 6 month rental agreement in the CC&R's. He is against the request.

Mr. Moench commented at the Planning Commission Meeting there was a unanimous vote by the homeowners being against this request.

Lana Eldredge stated she is a permanent resident of the subdivision. She would see the impact of this request every day. When they purchased their townhome, they were made aware of the 6 month rental restriction. It is a quiet area, and they do not want this area turned into a hotel. There is not enough parking in this development for vacation rentals and recreation vehicles. People are going to break the rules, and she would like to know if Jack Fisher Homes is going to police the development and make sure the rules are enforced.

Mr. Wright commented Jack Fisher Homes does not require a single management entity. If there are 72 homes, with 72 different managements, it would be a building nightmare.

Jaimee Goodwine stated she really enjoys living in the area. She has been there for 5 years, and feels very safe. If this is rezoned to nightly rentals, she would not feel as safe, and her property would be devalued.

*Councilman Staheli made a motion to close the public hearing. Councilman Seegmiller*

*seconded the motion; which passed with the following roll call vote:*

<i>Councilman Nisson</i>	<i>Aye</i>
<i>Councilman Seegmiller</i>	<i>Aye</i>
<i>Councilman Staheli</i>	<i>Aye</i>
<i>Councilman Turek</i>	<i>Aye</i>

Ben Willits stated he represents Jack Fisher Homes. He understands where the neighbors are coming from. However, he wants to help people understand business are well run. When a corporation purchases a majority of a development, they become the majority shareholder, which means they can do what they feel is best for their property. The CC&R's can be amended at anytime, and they would have the ability to do so without the homeowner's consent because they are not the majority shareholder. They want to be a good neighbor as much as possible, but they are here to do business, and make the most money possible.

Councilman Staheli commented they understand the CC&R's can be amended with a majority vote. What he has appreciated most, is the public process, and the input from the existing residents. If this were a platted subdivision without existing residents, he feels he would be more in favor. However, since there are existing residents, and they feel so strongly, his opinion has not changed.

**B. Consideration to approve an Ordinance adopting Zone Change request Z-15-09, to amend the Sienna Hills PCD.**

*Councilman Turek made a motion to deny an Ordinance adopting Zone Change request Z-15-09, to amend the Sienna Hills PCD due to input received tonight along with the meeting information from the Planning Commission this would be a negative impact to the current homeowners. Councilman Staheli seconded the motion; which passed with the following roll call vote:*

<i>Councilman Nisson</i>	<i>Aye</i>
<i>Councilman Seegmiller</i>	<i>Aye</i>
<i>Councilman Staheli</i>	<i>Aye</i>
<i>Councilman Turek</i>	<i>Aye</i>

**7. RESOLUTIONS**

**A. Consideration to approve a Resolution of the City Council of Washington, Utah, supporting the HB 362 (2015) Authorized 0.25% local optional General Sales Tax dedicated to transportation, encouraging the County of Washington to submit the proposal to voters in November 2015, and encouraging voters to support the proposal. Jeff Starkey, City Attorney**

City Attorney Jeff Starkey reviewed the Resolution for sales tax dedicated to transportation. This would allow the County to move forward to place this on the ballot to allow the residents to vote.

Councilman Staheli stated he does not like the word support on the document.

Councilman Seegmiller stated he would like the wording to say encouraged to vote.

Council discussed changes to the document.

Public Works Director Mike Shaw explained how the money collected would be disbursed.

City Manager Roger Carter explained the intention of this Resolution was for the County to get a feel for the support by the municipalities prior to placing this item on the ballot.

Councilman Seegmiller commented he would be in favor of passing a resolution in favor of this item. However, he would like to make edits to this document.

City Attorney Starkey stated he sees no issues having this document coming back in the next Council meeting drafted in a way the Council could be supportive of the document.

Councilman Nisson stated he feels the County can place this on the ballot without a Resolution. The voters are smart enough to figure this out for themselves.

City Attorney Starkey reviewed the transportation funding.

*Councilman Seegmiller made a motion to table a Resolution of the City Council of Washington, Utah, supporting the HB 362 (2015) Authorized 0.25% local optional General Sales Tax in order for the document to be redrafted as suggested by the City Attorney. Councilman Turek seconded the motion; which passed with the following roll call vote:*

<i>Councilman Nisson</i>	<i>Aye</i>
<i>Councilman Seegmiller</i>	<i>Aye</i>
<i>Councilman Staheli</i>	<i>Aye</i>
<i>Councilman Turek</i>	<i>Aye</i>

## **8. AGREEMENT**

**A. Consideration to approve a First Amended Interlocal Cooperation Agreement regarding the distribution of RAP Tax Revenue in Washington County.  
Jeff Starkey, City Attorney**

*Councilman Seegmiller made a motion to table a First Amended Interlocal Cooperation Agreement regarding the distribution of RAP Tax Revenue in Washington County. Councilman Nisson seconded the motion; which passed with the following roll call vote:*

<i>Councilman Nisson</i>	<i>Aye</i>
<i>Councilman Seegmiller</i>	<i>Aye</i>
<i>Councilman Staheli</i>	<i>Aye</i>
<i>Councilman Turek</i>	<i>Aye</i>

## **9. REPORT OF OFFICERS FROM ASSIGNED COMMITTEE**



Councilman Turek stated the Flood Control Authority is in the process of reconstructing some of the debris basins, which will be of great benefit to the residents.

City Attorney Starkey stated if any Council are interested in the Wildlands Fire Committee, they would really like to see some elected officials involved. The meetings are available online, and he can get those individuals on the committee.

Councilman Seegmiller stated he would be interested in participating on the committee.

#### **10. CITY MANAGER REPORT**

City Manager updated Council on current projects in Washington City. He reviewed pictures on the progress of Sullivan Park. The Buena Vista detention basins project has begun. We still have not received easement documents from Turner Turf Farm.

#### **11. ADJOURNMENT**

*Councilman Seegmiller made a motion to adjourn the meeting. Councilman Nisson seconded the motion; which passed with the following roll call vote:*

<i>Councilman Nisson</i>	<i>Aye</i>
<i>Councilman Seegmiller</i>	<i>Aye</i>
<i>Councilman Staheli</i>	<i>Aye</i>
<i>Councilman Turek</i>	<i>Aye</i>

*Meeting adjourned at 7:48 P.M.*

Passed and approved this 22nd day of July 2015.

Attest by:

  
Danice B. Bulloch, City Recorder



Kenneth F. Neilson, Mayor